

**House of Representatives
Judiciary
Committee Meeting Schedule - Interim 2004**

| DATE | TIME | LOCATION | COMMITTEE | SUBJECT | TYPE |
|-----------------|-----------|----------|--|---|---------------------------------|
| September 20-21 | TBA | Olympia | Full Committee | Hearsay Evidence. | Work Session |
| September 22 | 1:30-4:30 | Olympia | Judiciary (Joint with Agriculture & Natural Resources) | Water Courts. | Work Session/ Public Hearing |
| December 2-3 | TBA | Olympia | Full Committee | (1) Report on the Work of the Condominium Committee. (2) Water Courts. | Work Session/ Public Hearing |

Project Title: Hearsay Evidence

Project Goal:

Examine the issue of creating a dependent person hearsay exception, especially in light of a recent United States Supreme Court decision restricting the admissibility of testimonial hearsay.

Project Description:

Hearsay is an out-of-court statement and is generally inadmissible in court as evidence to prove the truth of the matter asserted. This general rule of inadmissibility is based on the fact that the trier of fact is not able to determine the credibility of a hearsay declarant since the usual procedures, such as cross-examination, were not available when the statement was made. In the criminal context, the rule against admitting hearsay statements also protects an accused person's constitutional right to confront witnesses. Exceptions to the hearsay rule exist both in court rules and statutes. Generally, the exceptions allow the admission of hearsay if there is sufficient indicia of reliability of the statements and the declarant is unavailable to testify as a witness. The Legislature created a statutory exception to the hearsay rule for statements made by a child under the age of 10 describing sexual or physical abuse. (RCW 9A.44.120)

Over the past several years, the Judiciary Committee has heard a number of bills creating a hearsay exception for statements made by vulnerable or dependent persons. (See HB 2943 from 2004). These bills have been based on the child hearsay exception statute, but none have passed the Legislature, in part due to difficulty in defining the persons and circumstances that should be covered by a dependent person hearsay exception.

In March, 2004, the United States Supreme Court addressed the issue of the admissibility of hearsay evidence in criminal proceedings (*Crawford v. Washington*). The Court ruled that the traditional "reliability" test for the admission of testimonial hearsay evidence violates a defendant's constitutional right of confrontation. The holding in the *Crawford* case calls into question the ability of the Legislature to establish a hearsay exception for dependent persons, and the continued viability of the current child hearsay exception.

The Judiciary Committee will have a work session to examine the issue of establishing a dependent person hearsay exception in light of the *Crawford* holding. In addition, the Committee will examine the impact of the *Crawford* holding on the current child hearsay statute.

Number & Type of Meetings: 1 work session

Completion Date: December 2004

Staff Assigned: Trudes Hutcheson

Project Title: Water Courts

Project Goal:

Study whether the state should create a specialized water court system and review legislative proposals regarding establishment of this system.

Project Description:

The Committee, as a joint project with the Agriculture & Natural Resources Committee, will study whether the state should create a specialized water court system for general adjudications and resolution of water rights disputes. The Committee will review the January 2004 report of the Water Disputes Task Force, which recommended the creation of a water court, and legislation introduced during the 2004 session to create the new court system (i.e., HB 3140, HJR 4219, SB 6674, SJR 8224, and SSJR 8225). The Committee also will monitor the activities and review the recommendations of the Board for Judicial Administration's ad hoc committee, which is being created to develop a formal judicial branch position on the creation of a water court system.

Number & Type of Meetings: 2 work sessions/public hearings

Completion Date: December 2004

Staff Assigned: Edie Adams and staff to the Agriculture and Natural Resources Committee

Project Title: Condominium Committee

Project Goal:

Monitor and report on the work of the Condominium Committee.

Project Description:

In the 2004 session, the Legislature passed 2ESSB 5536 relating to condominium law. One section of this bill created a seven-member committee to study two issues relating to condominium law: (1) the required use of independent third-party inspections of residential condominiums for problems of water penetration; and (2) the use of arbitration or other forms of alternative dispute resolution to resolve disputes involving breaches of implied or express warranties. The chair of the committee is to be appointed by the Governor, and the other six members are to be appointed by the Speaker of the House and the Majority Leader of the Senate. All members of the committee must have experience and expertise in condominium law or condominium construction. The committee is to deliver its findings and conclusions and any proposed legislation to the judiciary committees of the House and Senate by December 31, 2004.

The Judiciary Committee will monitor the work of the Condominium Committee and will receive an update at the December Committee Assembly meeting on the findings of the Condominium Committee and any proposed legislation to address the issues of water penetration and alternative dispute resolution.

Number & Type of Meetings: 1 work session

Completion Date: December 2004

Staff Assigned: Bill Perry, Edie Adams

STAFF RESEARCH PROJECTS

Project Title: Alternative Dispute Resolution Processes

Project Goal:

Study and report on the various forms of emerging alternative dispute resolution practices.

Project Description:

There are emerging alternatives to the current adversarial system that attempt to provide a more collaborative, client-involved, and preventative approach to dispute resolution. These new alternative methods of practicing law are often termed "transformational law" or "comprehensive law." Committee staff will study and report to the Committee on the various forms of alternative dispute resolution practices being advocated or used in Washington and other states, and evaluate to what extent there may be a legislative role in advancing the use of new forms of alternative dispute resolution.

Number & Type of Meetings: None.

Completion Date: December 2004

Staff Assigned: Trudes Hutcheson
